

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LAMOUNT AUSTIN,

Plaintiff,

vs.

Civ. No. 16-58 KG/LF

EVERBANK, and DOE UNKNOWN,

Defendants

and

FEDERAL NATIONAL MORTGAGE
ASSOCIATION d/b/a FANNIE MAE,

Intervenor.

ORDER GRANTING MOTION TO INTERVENE

This matter comes before the Court upon Federal National Mortgage Association's Motion to Intervene (Motion to Intervene), filed March 31, 2016. (Doc. 13). Federal National Mortgage Association d/b/a Fannie Mae (Fannie Mae) seeks permission to intervene in this quiet title lawsuit, because Fannie Mae owns the property which is the subject of this lawsuit. Fannie Mae also seeks leave to file a motion to dismiss the complaint. Defendant Everbank, a former servicer of the mortgage loan on the property at issue, does not oppose the Motion to Intervene. Although Plaintiff initially informed Fannie Mae that he opposes the Motion to Intervene, Plaintiff has not filed a response to the Motion to Intervene.

Under Fed. R. Civ. P. 24(a)(2), the Court must permit intervention as of right when someone

claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede

the movant's ability to protect its interest, unless existing parties adequately represent that interest.


Here, Fannie Mae owns the property which is the subject of this lawsuit and the disposition of this lawsuit may impair or impede Fannie Mae's ability to protect its interest in the property.

Moreover, it seems that Defendant Everbank, as a former servicer of the mortgage loan, is not in a position to protect Fannie Mae's interest in the property. For these reasons, the Court will permit Fannie Mae to intervene in this lawsuit and to file its motion to dismiss.

The Court further notes that Plaintiff's failure to respond to the Motion to Intervene constitutes consent to granting the Motion. *See* D.N.M. LR-Cv 7.1(b) ("The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.").

IT IS ORDERED that

1. Federal National Mortgage Association's Motion to Intervene (Doc. 13) is granted;
2. Fannie Mae is allowed to intervene in this lawsuit; and
3. Fannie Mae is allowed to file its motion to dismiss no later than May 6, 2016.



UNITED STATES DISTRICT JUDGE